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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/643,399	08/19/2003	Roy V. Ekberg	59881	3986

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EXAMINER

RADA, ALEX P

ART UNIT PAPER NUMBER

3714

DATE MAILED: 06/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/643,399

**Applicant(s)**

EKBERG, ROY V.

**Examiner**

Alex P. Rada

**Art Unit**

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on April 19, 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>8/19/03</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 4-5, 7-9, and 11-13 are rejected as best understood under 35 U.S.C. 103(a) as being unpatentable over Werzberger '298 in view of Burrows '405.

3. Werzberger disclose the following:

A display board (510), a book (520) having text imprinted (Figure 10A and 10B) and a first set of distinctive markings (529), and a set of cards having a second set of distinctive markings being associated with the first set of markings, in which the examiner interprets the first and second direction books (550 and 552) to be an equivalent to the set of cards having distinctive markings being associated with the first set of markings (figure 10A and 10B), whereby an individual card from the set of cards is positioned on the display board when the second set of distinctive markings on the individual card corresponds to one of the first set of distinctive markings encountered by a user viewing the text (column 13, line 44-56) as recited in claims 1, 8, and 12.

The second set of distinctive markings are encountered in the same order as the first set of distinctive markings are encountered in the text (column 13, line 44-56) as recited in claim 7.

Werzberger does not expressly disclose the following:

A plurality of magnets positioned at predetermined locations beneath a top surface of the display board as recited in claims 1, 8, and 12.

A first surface, a metallic element positioned beneath the first surface such that the metallic element is magnetically drawn to the corresponding magnets on the display board as recited in claims 4 and 9.

The display board includes a receiving section in which the metallic element is magnetically drawn to the magnets on the display board as recited in claim 5.

The plurality of magnets having disk-shaped configuration as recited in claims 11 and 13.

Burrows teaches the following:

A plurality of magnets positioned at predetermined locations beneath a top surface of a display board (figure 1 and abstract) as recited in claims 1, 8, and 12.

A first surface, a metallic element positioned beneath the first surface such that the metallic element is magnetically drawn to the corresponding magnets on the display board, in which the examiner interprets the removable playing pieces having the functional equivalent to the first surface and the metallic elements magnetically drawn to the corresponding magnets on the display board (column 5, line 52 – column 6, line 55) as recited in claims 4 and 9.

The display board includes a receiving section in which the metallic element is magnetically drawn to the magnets on the display board (column 5, line 52 – column 6, line 55) as recited in claim 5. By having a plurality of magnets positioned at predetermined location on a display board and attachable elements

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having magnetic elements drawn to the corresponding magnets on the display board, one of ordinary skill in the art would provide an interactive substrate for books and other educational or instructional material for children.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Werzberger to include a plurality of magnets positioned at predetermined locations beneath a top surface of the display board, a first surface, a metallic element positioned beneath the first surface such that the metallic element is magnetically drawn to the corresponding magnets on the display board, and a display board includes a receiving section in which the metallic element is magnetically drawn to the magnets on the display board as taught by Burrows to provide an interactive substrate for books and other educational or instructional material for children.

At the time the invention was made, it would have been an obvious design choice to a person of ordinary skill in the art to provide magnets in disk-shaped configuration because Applicant has not disclosed that having a plurality of magnets in a disk-shaped configuration as recited in claims 11 and 13 provides an advantage or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with the equivalent fasteners as taught by Burrows because any type of fastener would provide the same function of holding objects to a base or support.

4. Claims 2-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Werzberger '298 in view of Burrows '405 as applied to claim 1 above, and further in view of Herman '831.

5. Werzberger in view of Burrows disclose the claimed invention as discussed above except for the following:

The front and back covers including metallic elements positioned beneath respective first surface and configured to be magnetically drawn to corresponding magnets of the plurality of magnets in the display board as recited in claim 2.

The display board includes a book receiving section in which the metallic element of the front and back covers are magnetically drawn to corresponding magnets of the plurality of magnets of the display board when positioned on the book receiving section as recited in claim 3.

Herman teaches the following:

The front and back covers including metallic element positioned on respective first surface configured to be secured to the display board as recited in claims 2 and 3. By having a metallic element positioned on or within a book cover, one of ordinary skill in the art would provide a cover that is not easily susceptible to damage.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Werzberger to include front and back covers including metallic element positioned on respective first surface as taught by Herman to a cover that is not easily susceptible to damage.

6. Claims 6, 10, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Werzberger '298 in view of Burrows '405 as applied to claims 1, 8, and 12 above, and further in view of Wood '980.

7. Werzberger in view of Burrows disclose the claimed invention as discussed above except for the following:

The set of cards having a barcode and the system further having a central processing unit, a means for communicating a selected barcode from a card and

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means for processing the barcode and generating an output signal corresponding to the selected barcode as recited in claims 6, 10, and 14.

Wood teaches the following:

A set of cards (figure 1) having a barcode, in which the examiner interprets the pins holes (36) to be a functional equivalent to the barcode (column 4, lines 38-49) and the system further having a processing unit (figure 6), a means for communicating a selected barcode from a card and means for processing the barcode and generating an output signal corresponding to the selected barcode (summary) as recited in claims 6, 10, and 14. By having a barcode and a means for communicating the selected barcode from a card and generating an output signal corresponding to the selected barcode, one of ordinary skill in the art would provide children with an interactive device that facilitates the learning process for speaking, reading, and memorization.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Werzberger to further include a set of cards having a barcode and the system further having a central processing unit, a means for communicating a selected barcode from a card and means for processing the barcode and generating an output signal corresponding to the selected barcode as taught by Wood to provide children with an interactive device that facilitates the learning process for speaking, reading, and memorization.

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*Conclusion*

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Thompson '682, Smith '848, Moodie '303, Miller '586, Soules '907, Herman '831, Jannersten '191, Soules '907, and Nathanson '180 and '439 disclose different types of educational device.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alex P. Rada whose telephone number is 703-308-7135. The examiner can normally be reached on Monday - Friday, 08:00-16:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's primary, Jessica Harrison can be reached on 703-308-2217. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

APR  
Apr

JOHN M. HOTALING, II  
PRIMARY EXAMINER